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*Attorneys for Defendant Penguin
Group (USA) Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

)	Cause No. CV-11-72-M-DWM
MICHELE REINHART,)	
DAN DONOVAN, and)	Judge: Donald W. Molloy
DEBORAH NETTER, individually and)	
on behalf of all others similarly situated,)	
)	
Plaintiffs,)	
)	PENGUIN GROUP (USA) INC.’S
v.)	MOTION FOR PROTECTIVE
)	ORDER STAYING DISCOVERY
GREG MORTENSON, DAVID)	
OLIVER RELIN, PENGUIN)	
GROUP (USA), INC., a Delaware)	
corporation, and MC CONSULTING,)	
INC., a Montana corporation,)	
)	
Defendants.)	
)	

PURSUANT TO RULE 26(c) of the Federal Rules of Civil Procedure, Defendant Penguin Group (USA), Inc. (“Penguin”) hereby moves for a protective order to stay discovery pending the final determination of Penguin’s Rule 12(b)(6) motion (or motions) to dismiss Plaintiffs’ claims with prejudice. Specifically,

Penguin asks that the Court stay discovery until such time as the Court may rule that Plaintiffs have stated viable claims by denying Penguin's Rule 12(b)(6) challenges as to any of Plaintiffs' claims.¹

This motion is supported by a brief and declaration filed herewith. Pursuant to Local Rules 7.1(c)(1) and 26.3(c)(2), counsel for Penguin contacted counsel for Plaintiffs on August 3, 2011 to confer in good faith about whether Plaintiffs would agree to a stay of discovery. Counsel for Plaintiffs declined to agree to such a stay, and they will oppose this motion.

DATED: August 8, 2011

DORSEY & WHITNEY LLP

s/ F. Matthew Ralph
Jonathan M. Herman (admitted *pro hac vice*)
F. Matthew Ralph

*Attorneys for Defendant
Penguin Group (USA) Inc.*

¹ If Penguin's pending motion to dismiss is granted, and the Third Amended Complaint is dismissed as to Penguin with prejudice, no discovery would be required. If Penguin's pending motion to dismiss is denied as to any of Plaintiffs' claims, then discovery should be allowed to proceed. But if Penguin's pending motion were granted, but without prejudice to replead, then Penguin could bring another motion under Rule 12(b)(6) to dismiss any further amended complaint. Penguin requests that the Court stay discovery until such time as Penguin's Rule 12(b)(6) challenges to Plaintiffs' pleadings are ultimately denied, if ever, as to any of Plaintiffs' claims.

CERTIFICATE OF SERVICE

I hereby certify that, on August 8, 2011, I caused a copy of the foregoing **Penguin Group (USA) Inc.'s Motion for Protective Order Staying Discovery** to be served on the following persons by the following means:

<u>1,2,3,5,6,7</u>	CM/ECF
<u> </u>	Hand Delivery
<u> </u>	Mail
<u> </u>	Overnight Delivery Service
<u> </u>	Fax
<u>4,8</u>	E-Mail

- | | |
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Dated: August 8, 2011

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